



Reprinted
February 2, 2001

SENATE BILL No. 313

DIGEST OF SB 313 (Updated February 1, 2001 2:26 PM - DI 98)

Citations Affected: IC 25-2.5; noncode.

Synopsis: Acupuncture advisory committee. Defines "acupuncturist". Makes changes to the prerequisites required for an applicant to obtain a license to practice acupuncture and to the conditions that may serve as the basis for disciplinary action against a licensed acupuncturist. Provides that the practice of acupuncture by a chiropractor, dentist, or podiatrist who has a professional's license to practice acupuncture is limited to the scope of practice of the individual's profession. Extends the expiration date of the acupuncture advisory committee to June 30, 2006. Prohibits an acupuncturist, other than certain licensed health professionals, from performing acupuncture on a patient unless the acupuncturist obtains, from a licensed physician, a written letter of referral and either: 1) a written diagnosis of the patient; or 2) written documentation relating to the condition for which the patient receives acupuncture.

Effective: June 1, 2001; July 1, 2001.

Miller

January 16, 2001, read first time and referred to Committee on Health and Provider Services.

January 25, 2001, amended, reported favorably — Do Pass.

February 1, 2001, read second time, amended, ordered engrossed.

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First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

SENATE BILL No. 313

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 25-2.5-1-2.1 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2001]: **Sec. 2.1. "Acupuncturist" means an**
4 **individual to whom a license to practice acupuncture in Indiana**
5 **has been issued under IC 25-2.5-2.**

6 SECTION 2. IC 25-2.5-2-3, AS ADDED BY P.L.265-1999,
7 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 2001]: Sec. 3. (a) An applicant may, upon the payment of a
9 fee established by the board, be granted a license if the applicant
10 submits satisfactory evidence to the board that the applicant has been
11 licensed to practice acupuncture in another state or authorized in
12 another country under qualifications substantially equivalent to those
13 specified in this chapter for a license to practice acupuncture.

14 (b) An applicant may, upon the payment of a fee established by the
15 board, be granted ~~an affiliated~~ a professional's license to practice
16 acupuncture if the applicant submits satisfactory evidence to the board
17 that the applicant is a:

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1 (1) chiropractor licensed under IC 25-10;
 2 (2) dentist licensed under IC 25-14; or
 3 (3) podiatrist licensed under IC 25-29;
 4 with at least two hundred (200) hours of acupuncture training. ~~or~~
 5 ~~equivalent physiological acupuncture training approved by the board.~~

6 (c) The board shall:

7 (1) compile, at least once every two (2) years, a list of courses and
 8 institutions that provide training approved for the purpose of
 9 qualifying an individual for ~~an affiliated~~ a professional's license
 10 under subsection (b); and

11 (2) adopt rules that set forth procedures for the case by case
 12 approval of training under subsection (b).

13 **(d) If an individual's license described in subsection (b)(1),**
 14 **(b)(2), or (b)(3) is subject to any restrictions as the result of**
 15 **disciplinary action taken against the individual by the board that**
 16 **regulates the individual's profession, the same restrictions shall be**
 17 **applied to the individual's professional's license to practice**
 18 **acupuncture.**

19 **(e) An individual's professional's license issued under subsection**
 20 **(b) shall be suspended if the individual's license described under**
 21 **subsection (b)(1), (b)(2), or (b)(3) is suspended.**

22 **(f) An individual's professional's license issued under subsection**
 23 **(b) shall be revoked if the individual's license described under**
 24 **subsection (b)(1), (b)(2), or (b)(3) is revoked.**

25 **(g) The practice of acupuncture by an individual issued a**
 26 **professional's license under subsection (b) is limited to the scope of**
 27 **practice of the individual's license described in subsection (b)(1),**
 28 **(b)(2), or (b)(3).**

29 SECTION 3. IC 25-2.5-2-6, AS ADDED BY P.L.265-1999,
 30 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 JULY 1, 2001]: Sec. 6. The board may deny, suspend, or revoke a
 32 license, require remedial education, or issue a letter of reprimand, if an
 33 applicant or licensed acupuncturist does any of the following:

34 (1) Engages in false or fraudulent conduct that demonstrates an
 35 unfitness to practice acupuncture, including:

36 (A) making a misrepresentation in connection with an
 37 application for a license or an investigation by the board;

38 (B) attempting to collect fees for services that were not
 39 performed;

40 (C) false advertising, including guaranteeing that a cure will
 41 result from an acupuncture treatment; or

42 (D) dividing, or agreeing to divide, a fee for acupuncture



- 1 services with another person for referring the patient.
- 2 (2) Fails to exercise proper control over the acupuncturist's
- 3 practice by:
- 4 (A) aiding an unlicensed person in practicing acupuncture;
- 5 (B) delegating professional responsibilities to a person the
- 6 acupuncturist knows or should know is not qualified to
- 7 perform; or
- 8 (C) insufficiently supervising unlicensed personnel working
- 9 with the acupuncturist in the practice.
- 10 (3) Fails to maintain records in a proper manner by:
- 11 (A) failing to keep written records describing the course of
- 12 treatment for each patient;
- 13 (B) refusing to provide upon request patient records that have
- 14 been prepared for or paid for by the patient; or
- 15 (C) revealing personally identifiable information about a
- 16 patient, without the patient's consent, unless otherwise allowed
- 17 by law.
- 18 (4) Fails to exercise proper care of a patient, including:
- 19 (A) abandoning or neglecting a patient without making
- 20 reasonable arrangements for the continuation of care; or
- 21 (B) exercising or attempting to exercise undue influence
- 22 within the relationship between the acupuncturist and the
- 23 patient by making sexual advances or requests for sexual
- 24 activity or by making submission to sexual conduct a condition
- 25 of treatment.
- 26 (5) Displays ~~habitual~~ substance abuse or mental impairment to the
- 27 degree that it interferes with the ability to provide safe and
- 28 effective treatment.
- 29 (6) Is convicted, pleads guilty, or pleads no contest to a crime that
- 30 demonstrates an unfitness to practice acupuncture.
- 31 (7) Fails, in a negligent manner, to practice acupuncture with the
- 32 level of skill recognized within the profession as acceptable under
- 33 the circumstances.
- 34 (8) Violates willfully any provision of this article or rule of the
- 35 board.
- 36 (9) Has had a license denied, suspended, or revoked in another
- 37 jurisdiction for a reason that would be grounds for denial,
- 38 suspension, or revocation of a license under this article.
- 39 SECTION 4. IC 25-2.5-3-3, AS ADDED BY P.L.265-1999,
- 40 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 41 JULY 1, 2001]: Sec. 3. (a) Subject to section 1 of this chapter, it is
- 42 unlawful to practice acupuncture without a license issued under this

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1 article.

2 (b) Subject to subsection (c), it is unlawful for a licensed
3 acupuncturist, other than a chiropractor licensed under IC 25-10,
4 podiatrist licensed under IC 25-29, or dentist licensed under IC 25-14,
5 to practice acupuncture on a patient unless the acupuncturist obtains:
6 a:

7 (1) a written letter of referral; and

8 (2) either:

9 (A) a written diagnosis of the patient; or

10 ~~(B)~~ (B) written documentation relating to the condition for
11 which the patient receives acupuncture;

12 **from an individual licensed under IC 25-22.5** within the twelve (12)
13 months immediately preceding the date of acupuncture treatment.

14 (c) An acupuncturist licensed under this article may practice
15 auricular acupuncture on a patient for the purpose of treating
16 alcoholism, substance abuse, or chemical dependency without a written
17 letter of referral or written diagnosis from a physician licensed under
18 IC 25-22.5.

19 (d) If a licensed acupuncturist practices acupuncture on a patient
20 after having obtained a written letter of referral or written diagnosis of
21 the patient from a physician licensed under IC 25-22.5 as described in
22 subsection (b), the physician is immune from civil liability relating to
23 the patient's or acupuncturist's use of that diagnosis or referral except
24 for acts or omissions of the physician that amount to gross negligence
25 or willful or wanton misconduct.

26 SECTION 5. P.L.265-1999, SECTION 2, IS AMENDED TO READ
27 AS FOLLOWS [EFFECTIVE JUNE 1, 2001]: SECTION 2. (a) As used
28 in this SECTION, "committee" refers to the acupuncture advisory
29 committee established in subsection (b).

30 (b) The acupuncture advisory committee is established.

31 (c) The members of the committee shall:

32 (1) be appointed by the governor; and

33 (2) include the following members:

34 (A) One (1) chiropractor licensed under IC 25-10.

35 (B) One (1) podiatrist licensed under IC 25-29.

36 (C) One (1) dentist licensed under IC 25-14.

37 (D) One (1) acupuncturist.

38 (E) One (1) member of the American Academy of Medical
39 Acupuncturists who is licensed as a physician under
40 IC 25-22.5.

41 (d) The governor shall appoint one (1) of the members under
42 subsection (c)(2) as chair of the committee.

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- 1 (e) The committee shall meet upon the call of the chair.
2 (f) The committee:
3 (1) is an advisory committee to the medical licensing board under
4 IC 25-22.5-2; and
5 (2) shall make recommendations to the medical licensing board
6 regarding the practice of acupuncture.
7 All recommendations made under this subsection must be in the form
8 of potential rules under which acupuncturists may be licensed in
9 Indiana.
10 (g) After receiving recommendations under subsection (f), the
11 medical licensing board shall consider adopting the recommendations
12 as rules under IC 4-22-2.
13 (h) This SECTION expires ~~June 30, 2001~~ **June 30, 2006**.
14 SECTION 6. **An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 313, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 25-2.5-1-2.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 2.3. "Acupuncturist" means an individual to whom a license to practice acupuncture in Indiana has been issued under IC 25-2.5-2."**

Page 2, between lines 7 and 8, begin a new paragraph and insert:

"(d) The professional license of an individual that is issued under subsection (b) shall be suspended if the individual's license described under subsection (b)(1), (b)(2), or (b)(3) is suspended.

(e) The professional license of an individual that is issued under subsection (b) shall be revoked if the individual's license described under subsection (b)(1), (b)(2), or (b)(3) is revoked.

SECTION 3. IC 25-2.5-2-6, AS ADDED BY P.L.265-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 6. The board may deny, suspend, or revoke a license, require remedial education, or issue a letter of reprimand, if an applicant or licensed acupuncturist does any of the following:

- (1) Engages in false or fraudulent conduct that demonstrates an unfitness to practice acupuncture, including:
 - (A) making a misrepresentation in connection with an application for a license or an investigation by the board;
 - (B) attempting to collect fees for services that were not performed;
 - (C) false advertising, including guaranteeing that a cure will result from an acupuncture treatment; or
 - (D) dividing, or agreeing to divide, a fee for acupuncture services with another person for referring the patient.
- (2) Fails to exercise proper control over the acupuncturist's practice by:
 - (A) aiding an unlicensed person in practicing acupuncture;
 - (B) delegating professional responsibilities to a person the acupuncturist knows or should know is not qualified to perform; or
 - (C) insufficiently supervising unlicensed personnel working



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with the acupuncturist in the practice.

- (3) Fails to maintain records in a proper manner by:
 - (A) failing to keep written records describing the course of treatment for each patient;
 - (B) refusing to provide upon request patient records that have been prepared for or paid for by the patient; or
 - (C) revealing personally identifiable information about a patient, without the patient's consent, unless otherwise allowed by law.
- (4) Fails to exercise proper care of a patient, including:
 - (A) abandoning or neglecting a patient without making reasonable arrangements for the continuation of care; or
 - (B) exercising or attempting to exercise undue influence within the relationship between the acupuncturist and the patient by making sexual advances or requests for sexual activity or by making submission to sexual conduct a condition of treatment.
- (5) Displays ~~habitual~~ substance abuse or mental impairment to the degree that it interferes with the ability to provide safe and effective treatment.
- (6) Is convicted, pleads guilty, or pleads no contest to a crime that demonstrates an unfitness to practice acupuncture.
- (7) Fails, in a negligent manner, to practice acupuncture with the level of skill recognized within the profession as acceptable under the circumstances.
- (8) Violates willfully any provision of this article or rule of the board.
- (9) Has had a license denied, suspended, or revoked in another jurisdiction for a reason that would be grounds for denial, suspension, or revocation of a license under this article.

SECTION 4. IC 25-2.5-3-3, AS ADDED BY P.L.265-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. (a) Subject to section 1 of this chapter, it is unlawful to practice acupuncture without a license issued under this article.

(b) Subject to subsection (c), it is unlawful for a licensed acupuncturist, other than a chiropractor licensed under IC 25-10, podiatrist licensed under IC 25-29, or dentist licensed under IC 25-14, to practice acupuncture on a patient unless the acupuncturist obtains:

- (1) **a** written letter of referral; **and**
- (2) **either:**



(A) a written diagnosis of the patient; or
~~(B)~~ (B) written documentation relating to the condition for which the patient receives acupuncture; within the twelve (12) months immediately preceding the date of acupuncture treatment.

(c) An acupuncturist licensed under this article may practice auricular acupuncture on a patient for the purpose of treating alcoholism, substance abuse, or chemical dependency without a written letter of referral or written diagnosis from a physician licensed under IC 25-22.5.

(d) If a licensed acupuncturist practices acupuncture on a patient after having obtained a written letter of referral or written diagnosis of the patient from a physician licensed under IC 25-22.5 as described in subsection (b), the physician is immune from civil liability relating to the patient's or acupuncturist's use of that diagnosis or referral except for acts or omissions of the physician that amount to gross negligence or willful or wanton misconduct."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 313 as introduced.)

MILLER, Chairperson

Committee Vote: Yeas 10, Nays 0.

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SENATE MOTION

Mr. President: I move that Senate Bill 313 be amended to read as follows:

Page 1, line 1, delete "IC 25-2.5-1-2.3" and insert "IC 25-2.5-1-2.1".

Page 1, line 3, delete "2.3." and insert "**2.1.**".

Page 2, between lines 12 and 13, begin a new paragraph and insert:

"(d) If an individual's license described in subsection (b)(1), (b)(2), or (b)(3) is subject to any restrictions as the result of disciplinary action taken against the individual by the board that regulates the individual's profession, the same restrictions shall be applied to the individual's professional's license to practice acupuncture."

Page 2, line 13, delete "(d) The professional license of an individual that is" and insert "**(e) An individual's professional's license**".

Page 2, line 16, delete "(e) The professional license of an individual that is" and insert "**(f) An individual's professional's license**".

Page 2, between lines 18 and 19, begin a new paragraph and insert:

"(g) The practice of acupuncture by an individual issued a professional's license under subsection (b) is limited to the scope of practice of the individual's license described in subsection (b)(1), (b)(2), or (b)(3)."

Page 4, line 2, before "within" insert "**from an individual licensed under IC 25-22.5**".

(Reference is to SB 313 as printed January 26, 2001.)

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